

AMENDED IN ASSEMBLY MAY 14, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2935

Introduced by Assembly Member Figueroa

February 23, 1996

An act to amend Section 2079.12 of the Civil Code, relating to real property transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2935, as amended, Figueroa. Real estate licensees: duty of care.

Existing law specifies the duties of a real estate agent to the buyer in a residential real property transaction, and sets forth the findings and declarations of the Legislature in this regard.

This bill would modify the findings and declarations of the Legislature to provide that the above provisions regarding the duties of a real estate agent to the buyer in a residential real property transaction preempt the common law regarding this duty.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2079.12 of the Civil Code is
2 amended to read:
3 2079.12. (a) The Legislature hereby finds and
4 declares all of the following:

(1) That the imprecision of terms in the opinion rendered in *Easton v. Strassburger*, 152 Cal. App. 3d 90, and the absence of a comprehensive declaration of duties, standards, and exceptions, has caused insurers to modify professional liability coverage of real estate licensees and has caused confusion among real estate licensees as to the manner of performing the duty ascribed to them by the court.

(2) That it is necessary to resolve and make precise these issues in an expeditious manner.

(3) That it is desirable to facilitate the issuance of professional liability insurance as a resource for aggrieved members of the public.

(4) That ~~Section~~ *Sections 2079 to 2079.6, inclusive*, of this article should be construed as a definition of the duty of care found to exist by the holding of *Easton v. Strassburger*, 152 Cal. App. 3d 90, and the manner of its discharge, and ~~thereby preempts the common law regarding this duty.~~ *is declarative of the common law regarding this duty. However, nothing in this section is intended to affect the court's ability to interpret Sections 2079 to 2079.6, inclusive.*

(b) It is the intent of the Legislature to codify and make precise the holding of *Easton v. Strassburger*, 152 Cal. App. 3d 90. It is not the intent of the Legislature to modify or restrict existing duties owed by real estate licensees.